

UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION

FILED  
ASHEVILLE, N.C.

JAN -2 2019

UNITED STATES OF AMERICA

DOCKET NO: 1:18cr92

U.S. DISTRICT COURT  
W. DIST. OF N.C.

VS.

Challenge to Jurisdiction

JAMES E. MACALPINE

Defendant

Hand-Delivered

**NOTICE AND DEMAND FOR PROOF OF JURISDICTION**

**JURISDICTION IS HEREBY AND HEREWITH CHALLENGED**

Now comes James E. MacAlpine (the Petitioner), without assistance of counsel, not the defendant, the beneficiary in fact, not the Trustee, not now or ever having been a United States CITIZEN and hereby moves this Court to dismiss the above captioned action with prejudice for lack of subject matter and in personam jurisdiction, to wit Petitioner presents on and for the record:

"Once challenged, jurisdiction cannot be assumed, it must be proved to exist." Stuck v. Medical Examiners 94 Ca 2d 751. 211 P2d 389. "The law provides that once State and Federal Jurisdiction has been challenged, it must be proven." 100 S. Ct. 2502 (1980).

"Once jurisdiction is challenged, the court cannot proceed when it clearly appears that the court lacks jurisdiction, the court has no authority to reach merits, but rather should dismiss the action." Melo v. U.S. 505 F 2d 1026.

"The law provides that once State and Federal Jurisdiction has been challenged, it must be proven." 100 S. Ct. 2502 (1980).

Jurisdiction is hereby challenged.

Petitioner wants to acknowledge and thank the Court for its eloquent long and mostly on point Order dismissing Petitioner's previous pleadings. The focus within that Order with respect to the assertion that Petitioner is or ever has been a U.S. citizen allowed for a laser beam focus on that presumption to the exclusion of all other matters.

As a birth right, we are born into the Kingdom of Heaven, children of Christ. Citizenship is an offer to contract, for the posterity. Fortunately the process to become a U.S. citizen has been clearly established.

The Statute at large to become a US citizen is the act of Congress of April 14, 1802, (2 Stat. 153, c. 28, 1; Rev. St. 2165) states that "an alien may be admitted to become a citizen of the United States in the following manner, and not otherwise."

See " CITY OF MINNEAPOLIS v. REUM " (Circuit Court of Appeals, Eighth Circuit. May 29, 1893).

The process was clearly stated as Conclusions of Law by the Court -- The Court went on to state

three factors whereby YOU needed to comply with to become a US Citizen and NOT OTHERWISE.

They are, quoting the Court :

FIRST He shall, at least two years prior to his admission, declare before a proper court his intention to become a citizen of the United States (Petitioner has not done this) and to renounce his allegiance to the potentate or sovereignty of which he may be at the time a citizen or subject (Petitioner has NOT done this).

SECOND He shall, at the time of his application to be admitted, declare, on oath, before someone of the courts specified above, that he will support the Constitution of the United States, and that he absolutely and entirely renounces and abjures all allegiance and fidelity to every foreign prince, potentate, state, or sovereignty; and particularly, by name, to the prince, potentate, state, or sovereignty of which he was before a citizen or subject, which proceedings shall be recorded by the Clerk of the Court. (Petitioner has not done this)

THIRD It shall be made to appear to the satisfaction of the court admitting such \*alien\* that he has resided within the United States for at least five years, and within the state or territory where such court is at the time held one year at least, and that during that time he has behaved as a \*MAN\* of a good moral character, attached to the principles of the Constitution of the United States, and been well-disposed to the good order and happiness of the same; but the oath of the applicant shall in no case be allowed to prove his residence. (Petitioner is unaware of this ever having happened)

The Solicitor General, stated in 1864, "An alien owes no allegiance or obedience to our government, or to our constitution, laws, or proclamations. A citizen subject is bound to obey them all. In refusing such obedience, he is guilty of crime against his country, and finds in the law of nations no justification for disobedience. An alien, being under no such obligation, is justified in refusing such obedience. Over an alien enemy, our government can make no constitution, law, or proclamations of obligatory force, because our laws bind only our own subjects, and have no extra-territorial jurisdiction."

Petitioner will show to this Court, in a hearing to be held as soon as possible , apostilled evidence that he has never waived or renounced his allegiance to God, the blood of Christ or the Holy Ghost and that Petitioner is an ambassador as recognized under international law and treaty.

Pursuant to 380 U.S. 163 "The Bible is law to be applied nationally",

2 Corinthians 5:20 "We are therefore Christ's ambassadors, as though God were making his appeal through us. We implore you on Christ's behalf: Be reconciled to God. "

U.S. Constitution Article III, section 2; In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme Court shall have original Jurisdiction.

Unless and until the prosecution can place on the record evidence of Petitioner ever having complied with the three steps above, Petitioner is not a U.S. citizen, never has been a citizen or resident of the United States as that term is used in the Internal Revenue Code, and therefore this Court is denied jurisdiction in this matter.

And we shouldn't even mention but we must, this Court is not operating under the Constitution in any event. Since 1938, following the bankruptcy of the United States in January 1934, the United States has been operating under Public Policy and administrative municipal codes.

public policy

noun

- the principles, often unwritten, on which social laws are based.
- LAW the principle that injury to the public good is a basis for denying the legality of a contract or other transaction.

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It is the height of fraud and misfeasance for the so called prosecution in this case to pantomime law and due process when it knows full well the true nature of this proceeding. The only question remaining is whether this Court will aid and abet the crime?

And finally we can't forget that there is no rule of law left in the once again bankrupt corpocracy known as the United States. It is all commercial as evinced by the introduction into the record, now removed, of the \$374,100,000 bond on this case. Petitioner has assigned the Trustee in the case, the Prosecutor, to settle any claims with said funds. Pursuant to the UCC,

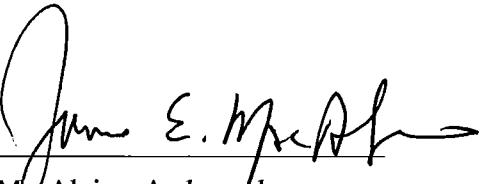
#### § 3-603. TENDER OF PAYMENT.

- (a) If tender of payment of an obligation to pay an instrument is made to a person entitled to enforce the instrument, the effect of tender is governed by principles of law applicable to tender of payment under a simple contract.
- (b) If tender of payment of an obligation to pay an instrument is made to a person entitled to enforce the instrument and the tender is refused, there is discharge, to the extent of the amount of the tender, of the obligation of an indorser or accommodation party having a right of recourse with respect to the obligation to which the tender relates.

once payment is tendered, whether it is accepted or not the debt is extinguished. So there is no controversy left before this court, once again denying it jurisdiction.

I request that the court hold a hearing as soon as possible so that I can provide documentary evidence that supports the foregoing arguments.

Submitted this 2 <sup>th</sup> day of January, 2019



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James E. MacAlpine

James E. MacAlpine, Ambassador

**CERTIFICATE OF SERVICE**

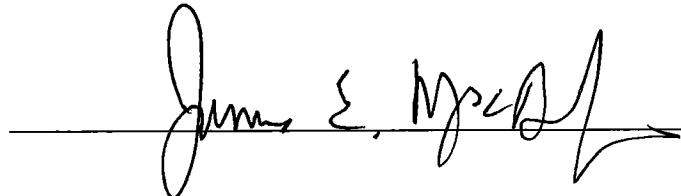
I hereby certify that on January 2, 2019 a copy of the foregoing document has been mailed to AUSA Daniel Bradley.

100 Otis St. Asheville, North Carolina 28801

James E MacAlpine

603 Woodlea ct.

Asheville, NC 28806

A handwritten signature in black ink, appearing to read "James E. MacAlpine". The signature is written over a horizontal line.